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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) CISCO-3840 (032590-141)	
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	First Named Inventor Shujin Zhang		
	Art Unit 2181	Examiner Patel, Niketa I.	
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input type="checkbox"/> attorney or agent of record. Registration number _____ <input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number <u>38,745</u>		Signature <u>[Signature]</u> Khaled Shami Typed or printed name 408-292-5800 Telephone number 08/29/2006 Date	
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PATENT
Serial No. 09/835,164
Atty. Docket No. CISCO-3840 (032590-141)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Shujin Zhang et al. CONFIRMATION NO.: 4870
SERIAL NO.: 09/835,164
FILING DATE: 04/13/2001
TITLE: DYNAMIC HOST CONFIGURATION PROTOCOL PROXY
EXAMINER: Patel, Niketa I.
ART UNIT: 2181

CERTIFICATE OF MAILING

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Date: 08/29/2006

Name: Julie Arango

Julie Arango

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Commissioner for Patents
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Applicant respectfully requests a formal review of the legal and factual basis of the rejections in the above referenced application in view of the following remarks:

Claims 67-94 were rejected under 35 U.S.C. 101 as allegedly being directed to non-statutory subject matter. The Office Actions cites the discussion relating to data structures in the Interim Guidelines for Examination of Patent Applications (OG Notices: November 2005) in support of this rejection. Applicants respectfully traverse.


First, claims 67-94 are not directed to data structures. As the Interim Guidelines explain, a data structure is “a physical or logical relationship among data elements, designed to support specific data manipulation functions.” In contrast, Claim 67 for example recites, inter alia, a host identifier retrieving module that is configured to retrieve a host identifier from a network address allocation request. It also recites a relay agent address field proxy address insertion module configured to insert a proxy address in a relay agent address field in the request. As Applicants previously explained, these modules may be hardware or software components (or firmware components). In any case they are not data modules pursuant to the above definition and pursuant to a conventional understanding of that term. Moreover, even if, arguendo, they were data structures, this would not be determinative as the inquiry would not stop there. The next question that would need to be answered is whether such a data structure falls within the category of descriptive material per se, and only if the response to that inquiry is in the affirmative would it be deemed to be non-statutory subject matter. (A similar line of inquiry would also need to be pursued to determine if the claimed material is a computer listing per se, and Applicants respectfully submit that the same conclusion reached hereafter would follow since the claims recite functionality, which extends beyond mere listing or description). In this case the claims recite structural and functional interrelationships with the other aspects of the invention, removing them from the purview of non-statutory descriptive per se material. In particular, in the example of Claim 67, the host identifier retrieving module is configured to retrieve a host identifier from the request. This is a recited function (retrieving) performed by a component (host identifier retrieving module). Also in claim 67, a request transmission module coupled to a relay agent field proxy address insertion module is configured to transmit the request to an address allocation device to issue or renew a host address if the host associated with the host identifier is in a state of authentication. Again a recited function (transmit) is performed by a first component (request transmission module) in relationship to a second component (address allocation device).

Claim 74 is also not directed to a data structure and in any case recites structural and functional interrelationships that remove it from the purview of non-statutory descriptive per se

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Respectfully submitted,
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Dated: 08/29/2006


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